

AGENDA NO.

**PLANNING COMMITTEE
19 September 2007**

**REPORT OF CORPORATE DIRECTOR
OF DEVELOPMENT AND
NEIGHBOURHOOD SERVICES.**

7 Kielder Close, Billingham Unauthorised development for the erection of 1.8 metre high fence

SUMMARY

On 6th June 2005, planning permission was granted (05/0239/FUL) for the erection of a single storey lounge extension, a garage and a 1.8 metre high screen fence.

A further application (06/3484/FUL) sought planning permission retrospectively for a 1.8m close-boarded fence across the part of the site and hard up against the footpath. The application was refused on the grounds that the fence has an adverse impact on visual amenity and highway safety. A subsequent appeal was dismissed because of the adverse impact of the fence on the character of the area.

A further planning application (07/1646/REV) sought to amend the fence line to allow a more open frontage but was refused by members of the planning committee. An enforcement notice was served and the applicant has amended the fence line. However, the rear of the fence veers out from the approved fence line by approximately 0.6m.

Members must therefore determine whether the or not it is expedient to take enforcement action against the unauthorised development to insist that the development is in line with the approved drawing under application 05/0239/FUL.

RECOMMENDATIONS

That it is not expedient to take enforcement action to ensure that the fence accords with the position as previously approved under application 05/0239/FUL.

THE DEVELOPMENT / USE

1. A 1.8m high fence has been erected alongside the garage approved under application 05/0239/FUL. The approved site plan shows that the fence projects out of the garage by approximately 1.2m. The fence has been constructed on site 1.22m from the garage at the front but this veers off to the rear to project out

approximately 1.84m. This is at variance with the approved plan by approximately 0.62m.

PLANNING POLICY CONSIDERATIONS

Section 54a of the Town and Country Planning Act 1990 acknowledges that all planning approvals should be in accordance with the provisions of the development plan.

Policy GP1

Proposals for development will be assessed in relation to the policies of the Cleveland Structure Plan and the following criteria as appropriate:

- (i) The external appearance of the development and its relationship with the surrounding area;
- (ii) The effect on the amenities of the occupiers of nearby properties;
- (iii) The provision of satisfactory access and parking arrangements;
- (iv) The contribution of existing trees and landscape features;
- (v) The need for a high standard of landscaping;
- (vi) The desire to reduce opportunities for crime;
- (vii) The intention to make development as accessible as possible to everyone;
- (viii) The quality, character and sensitivity of existing landscapes and buildings;
- (ix) The effect upon wildlife habitats;
- (x) The effect upon the public rights of way network.

MATERIAL PLANNING CONSIDERATIONS

2. Under the previous application 05/0239/FUL, a small garden extension was agreed on the open area of land to the side of the house. It was considered acceptable because the land was in private ownership, had no public open space classification and the majority of the open space would remain and act as a buffer between the hard development of the garage and the roadside
3. The unauthorised fence has been erected largely in accordance with the approved plan and veers out of line by approximately 0.64m (2 feet). It is considered that the visual impacts and the impact on the open character of the area are minimal and the development does not have adverse impact on the visual amenity.
4. The Local Ward Councillor made a request for the Council's arboricultural officer to assess the impact of the fence on the surrounding trees. No assessment has yet been provided and will be provided through an update report.
5. It is considered that if a planning application were submitted for the development, the planning application would be recommended for approval, as the scheme would accord with policy GP1 of the Local Plan.
6. On this basis it is considered that it would be unreasonable to insist that the fence be strictly in accordance with the approved drawing and that it is not expedient to take enforcement action against the development.

CONCLUSION

7. It is considered that the unauthorised fence does not have a detrimental impact on the open character of the area or the visual amenities of the locality to warrant the removal of the scheme.
8. Given this situation, it is considered that it would not be expedient for enforcement action to be taken to ensure that the unauthorised development accords with the approved plan; it is therefore recommended that no enforcement action.

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Human Rights Implications-The provisions of the European Convention of Human Rights 1950 have been taken into account in the preparation of this report.

Background Papers

Stockton-on-Tees Local Plan 1997
Planning Applications 05/0239/FUL, 06/3484/FUL and 07/1646/REV

Ward and Ward Councillors

Billingham West Ward
Councillor Mr M Womphrey and Mrs M B Womphrey